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ABSTRACT

A recent study identified confidentiality as the most frequently encountered dilemma for college counselors. A study was conducted to examine whether there was a consensus among directors of college and university counseling centers regarding confidentiality. Directors (N=160) completed questionnaires concerning counseling center background and size, college characteristics, counseling center guidelines and limits on confidentiality, and whether clients were informed of limits. Professional data on directors were also obtained. Subjects read three hypothetical vignettes depicting legal and ethical dilemmas likely to be found in college and university counseling centers. Dilemmas concerned clients and computer crimes, client manufacturing of illegal drugs, and a client with a suicidal roommate. For each vignette, subjects responded to whether or not they would keep the confidentiality. Responses to vignettes revealed that most directors were reluctant to break confidentiality. This reluctance did not correlate with the center's policies on confidentiality, the center's demographics, counseling center size, nor with directors' professional variables. Although most directors reported that their counseling centers had policies about confidentiality, the results suggest that centers need more specific guidelines concerning confidentiality, and that counselors and student clients need to be better informed about confidentiality limits. (NB)

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When Will a University Counselor Reveal Confidential Information?

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TO THE EDUCATIONAL RESOURCES INFORMATION CENTER (ERIC)."

Hayman and Covert (1986) recently studied ethical concerns in college counseling centers and identified confidentiality as the most frequently encountered ethical dilemma for college counselors. About one third of these confidential dilemmas faced by college counselors dealt specifically with the difficult decision of whether to disclose information to a third party when a client was perceived to be a danger to self or others. College counnselors are not alone in their experience with confidentiality. Among all legal and ethical issues, confidentiality probably poses the most serious dilemma for contemporary providers of mental health services. The present study was designed to study the status of university counseling centers' policies in regard to confidentiality. Ethical Principles of Psychologists (APA, 1981), and Ethical Standards (AACD, 1983) both stressed confidentialty as a primary obligation psychologists and counselors have toward their clients. However, the rationale for confidentiality in the therapeutic relationship has undertaken a subtle change in the last decade (Denkowski & Denkowski, 1982). Although confidentiality is still considered essential in fostering trust in the therapeutic relationship and open disclosure in communication, an increasing number of counselors have found that in order to protect their clients and others, the principle of complete confidentiality on occasion has to be compromised. Additionally, judicial sentiment tends to view absolute confidentiality as running "against the grain of justice, truth and fair dealing" (McCormick, 1972, p. 226), and jurists often insist that therapists

divulge priveleged communications. In the face of ever increasing liability, counselors have become much more aware of the precarious position they are in vis-a-vis the delicate issue of confidentiality (Schutz, 1982; Thompson, 1983).

Despite the current concerns and interests in confidentiality, few studies have examined the unique concerns and policies of college and university counseling centers. Hayman and Covert's study (1986) and Gallagher's (1984) study on counseling centers' policies and their directors' opinions pertaining to legal issues are among the few data-based research studies. University and college counseling centers have unique legal and ethical concerns. Practitioners at university and college counseling centers are sometimes called upon to weigh the privacy interests of their clients against the responsibilities and duties which they have to their college or university employer. Are there some distinctions to be made regarding the nature of confidentiality at a campus counseling center as opposed to that at an extracampus center? Is it true that those who "pay the piper call the tune"? Does the age of the student clients and the vestiges of in loco parentis affect the legal interpretations of confidentiality? A campus location does not shelter the counseling center from the legal and ethical requirements of confidentiality. In fact, the landmark Tarasoff case (Tarasoff v. Regents of the University of California, 1976), originated on the campus of the University of California, Berkeley. In this case, the California Supreme Court ruled that the psychiatrist-patient relationship is a special one out of which arises a legal duty on the part of the therapist to warn a known intended victim threatened by the therapist's patient.

However, this California Supreme Court ruling has raised as many questions as it may have answered (Knapp & VandeCreek, 1982). For example, is there a duty to warn when danger is limited to self or damage to property? When threats to harm are directed to unspecified persons or a class of persons? When the warning itself may aggravate the situation and endanger the therapist or others? Subsequent legal rulings (Shaw v. Glickman, 1980; Leedy v. Harnett, 1981) have slowly shed light on these delicate legal issues. For example, in Bellah v. Greenson, a California appellate court refused to extend the Tarasoff duty to warn to a case that involved a suicide (Knapp & VandeCreek, 1982). The court concluded that self-inflicted harm or damage to property does not invoke a legal duty to warn.

These questions raised as an outcome of the Tarasoff case, coupled with the increase in litigation in all areas of society, prompted the present study. Directors of college and university counseling centers were surveyed in an attempt to ascertain whether there was a consensus among the directors regarding confidentiality; both in terms of their personal responsibilities and in terms of policies within their centers. In addition, the study presented three hypothetical vignettes depicting some of the legal and ethical dilemmas more likely to be found in college and university counseling centers. The first dilemma depicted a student client who was involved in a computer crime; the second vignette presented a student client who used a university laboratory to manufacture illegal drugs; whereas the third vignette portrayed a student client who had a suicidal roommate, but who would not reveal the identity of her roommate. These three vignettes were used to survey the degree to

which the directors felt committed to confidentiality and under what circumstances they would consider breaching a confidential obligation to their clients. Finally, the study correlated the directors' responses to these vignettes with their porfessional background and the demographic variables of their counseling centers.

Method

Sample

The sample was taken from the 1981 membership list of the Association of University and College Counseling Center Directors. The list contains 248 U.S. college and university counseling centers and the names of their directors. A questionnaire and a standard letter describing the purpose of the study were mailed to all 248 directors on the list. One hundred sixty replied, a return rate of 65%. Of particular interest is that of the 160 directors responding, 140 requested a copy of the results, a stunning rate of 87.5%.

Materials

The questionnaire contained two parts. The first part requested (a) background information on the center, such as the size of the school; whether the school was public or private; the size of the counseling center; whether the center had guidelines on clients' confidentiality, specified limits on the confidentiality; and whether the clients were informed of these limits; and (b) professional data on the director, such as the highest degree earned; the year that degree was received; discipline of that degree; and the number of years the respondent had served as the director.

The second part of the questionnaire presented three hypothetical vignettes, and the directors were asked, in each case, if they would keep the confidentiality; break part of it by reporting the incident but not the identity of the client, with or without informing the client; or break all of it by reporting both the incident and the identity of the client, with or without informing the client. The instructions and the first vignette were as follows:

> Please view the following case as if it has been reported to you by one of your staff counselors. You are asked to make a decision upon whether to report the situation to the proper authorities or to maintain confidentiality.
>
> Case #1
>
> Bill W., a senior majoring in engineering, has recently been nominated as a candidate for the coveted "Senior Scholastic Award" of $1000.00. Bill will be in competition with three other nominees and must take both a written and an oral examination. Bill is a bright student and has an overall grade point average of 3.86. As an entering freshman Bill scored above the 85th percentile on both the ACT and the SAT. Bill is a micro-computer hobbyist. He confesses that over the past two years, he has been able to break into the university computer record system and has changed most of his "C" grades to "A". He has also done this for a few of his best friends, and has been offered substantial amounts of money for his services, although he has not taken any money. Bill is afraid that his performance on the examinations may be below the

expectations of the committee and that his grades may be scrutinized. Bill knows that the counseling center stresses confidentiality and he has, therefore, been honest in revealing his situation to his counselor.

Which of the following actions would you be most likely to support:

1. _____Keep the information confidential and provide Bill with appropriate therapy.
2. _____Inform Bill that the situation must be reported to authorities, but that you will not reveal his identity.
3. _____Inform Bill that the situation and his identity must be reported.
4. _____Without Bill's knowledge, report the situation but do not reveal Bill's identity.
5. _____Without Bill's knowledge, report all information including the client's name.

COMMENTS: (Space was available for comments).

The second vignette portrayed a chemistry student who confessed during the therapeutic process that he had been using university laboratory facilities to manufacture L.S.D. for profit.

The third vignette involved a student seeking counseling concerning her potentially suicidal roommate who was also a student at the university. They lived off the campus. From her description, the roommate seemed severely depressed and serious about her suicidal intent.

We feel that incidents such as those depicted in Vignettes #1 and #2, have a high probability of occurring on campus. How should a

counselor deal with such dilemmas when our obligation to the client's confidentiality is challenged by our obligations to the client's welfare, the public's welfare, and our responsibility to the university? The legal and ethical guidelines are rather clear when dealing with a seriously suicidal client; however, when direct access to the potentially suicidal student is not available, such as in Vignette #3, what is the obligation of the professional? If the student refuses to reveal the identity of the roommate who is faced with a potential crisis, should we inform the student that we have to break the confidentiality and provide prompt and appropriate intervention to the roommate? Should we, without the student's knowledge, work through the university's information system to locate the roommate? Or should we work with the student, her feelings, and try to persuade her to reveal the roommate's identity?

Results

Demographic Information

Of the 160 responses, 37.5% were from counseling centers at private colleges or universities, and 62.5% were from those in the public sector. The majority (90%) of these schools offered advanced degrees beyond the baccalaureate. Small, medium, as well as large schools were evenly represented in the sample, as 27% had less than 5,000, 25% ranged between 5,000 and 10,000, 26% ranged between 10,000 and 20,000, and 22% had more than 20,000 students. In terms of the size of the counseling centers, 38.5% had less than 5 full time counselors, 39% had 5 to 10, and 22.5% had more than 10 full time counselors.

Most of the directors (65.1%) held Ph.D. degrees, followed by those who held Ed.D. degrees (22.9%). Only 8.9% of the directors held M.A. degrees. Five directors (3.1%) did not specify. Most of the directors (51%) received their highest degree 10 to 15 years ago, followed by those who received their highest degree 5 to 10 years ago (30.6%). Only 5 (3.1%) received degrees over 15 years ago, and 24 (15.3%) received degrees within the last 5 years. Counseling Psychology was their most common discipline (43.2%), followed (30.6%) by disciplines such as Counselor Education, Educational Psychology, Guidance and Counseling, and Clinical Psychology (16.7%). Other disciplines (9.5%) represented were Psychology, Education, Student Personnel Administration, and Social Work. Less than 5 years of tenure as the director was most frequently reported (46.7%), followed by 5 to 10 years (26.9%), 10 to 15 years (14.2%), and more than 15 years (12.2%).

Policies on Confidentiality

The majority of the directors (n = 139, 86.9%) stated that their centers had policies concerning the protection of clients' confidentiality, while 17 (10.6%) stated that there were no such policies, and 4 (2.5%) either marked both responses or wrote ambiguous responses such as the policies were outdated, not followed, written ambiguously, or ineffectual. The 139 directors whose centers had policies were asked if their centers specified conditions under which the confidentiality might be violated. One hundred and twenty six (80.7%) stated that their centers specified such conditions, 13 (8.3%) said they did not, whereas those who gave ambiguous written comments rose to 17 (11.0%). Those 126 directors whose centers specified conditions under

which confidentiality might be violated were asked if their counselors were informed, and if clients were informed of these conditions. One hundred and twenty seven directors (83.6%) stated that their counselors were informed, 3 (2.0%) stated the opposite, and 22 (14.4%) gave ambiguous written comments. Sixty directors (39.5%) stated that the student clients were informed, 69 (45.2%) stated the opposite, and 23 (15.3%) gave written comments which were ambiguous (e.g., depends on the counselors; not consistently; should be, but not done).

Responses to Vignettes

Both marked categories and written comments were used for analyses. It might be worthwhile to note that a small number of the categories marked by the directors did not match their written comments. In those cases, 2 doctoral students in Counseling Psychology discussed the issue and used the written comments to reselect the marked categories. If a director marked more than one category, then the one indicating more severe violation of confidentiality was used as the director's marked category.

In Vignette #1, about the computer crime, 158 out of the total 160 respondents answered. The majority of directors (n = 115, 72.8%) would keep communication confidential, 33 (or 20.8%) would report the incident to the university while not revealing the student's identity, and only 10 (or 6.4%) would report both the incident and the student's identity after informing the student. No one would do so without informing the student. Twenty one directors wrote in a variety of comments ranging from statements such as "not enough information for decision making" to "would check with the university lawyer and do whatever the lawyer suggests."

In Vignette #2, concerning the manufacturing of illegal drugs, 157 out of the total 160 respondents answered. The majority (n = 97, 61.8%) would keep the incident confidential, 39 (24.8%) would report the incident to the university while not revealing the student's identity, and 21(13.4%) would report the incident and the student's identity after informing the student. No one would do so without the student's knowledge. Twenty directors wrote in various comments ranging from "LSD is serious, and I treat this case as clear and imminent danger to others" to "not enough information to make a decision."

In Vignette #3, concerning the suicidal roommate, among those who answered (n = 158), the majority (n = 82, 51.9%) would keep the information confidential, 72 (45.6%) would inform the client and break the confidentiality, and only 4 (2.5%) would do so without informing the client. Again, 25 directors wrote a variety of comments such as "I trust my ability to persuade Mary to bring her roommate to see me", "not enough information to make a judgment," "I'll break confidentiality if there is clear and imminent danger, but only second-handed and vague information is presented here."

A series of chi-square analyses were performed to analyze the relationship between the directors' responses to the vignettes and the directors' professional backgrounds. However, due to small cell size, none of the analyses turned out to be significant ($p > 0.05$). Then, the responses to the vignettes were re-classified into two major categories: maintain confidentiality or not maintain confidentiality, for the same analyses. The only significant chi-square analysis was obtained between the reponses to Vignette #1 and the highest academic degree held by the

directors ($\underline{x}^2 = 8.3$, $\underline{p} < 0.05$, $\underline{df} = 2$). Among the directors with M.A. degrees, 5 out of 14 (35.7%) would break confidentiality; among those with Ed.D. degrees, 16 of 36 (44.4%) would break confidentiality; and among Ph.D. holders, 22 of 105 (21%) would break confidentiality, which was significantly lower than the Ed.D. and M.A. holders.

The phi coefficient analyses were performed to test the correlations between directors' responses to the three different vignettes. The only significant result ($\underline{phi} = 0.46$, $\underline{n} = 157$, $\underline{p} < 0.05$) was found between responses to Vignettes #1 and #2. There were no significant correlations between directors' responses to Vignettes #1 and #3, or #2 and #3.

Discussion

The many written comments and the high proportion of directors requesting results of this study gave the impression that the counseling centers directors in the nation were interested in the problems associated with confidentiality and were eager to learn how other centers handle them. Several directors wrote that even though they were busy and always bombarded with survey questionnaires, they were fascinated by the ethical dilemmas presented in this study. Three directors took the vignettes to the staff meeting for discussion and to alert the staff about the legal and ethical ramifications of confidentiality. One person used the vignettes in an unnamed, regional workshop. Many directors also found the vignettes too vague, and the categories too restrictive. This frustration may also have reflected their sincerity in trying to come up with the best decisions in cases which were easily as ambiguous as many of the life situations that we encounter in our daily counseling process.

In each of the three vignettes, we really had no definite right or wrong answers in mind. Rather, we were curious as to what kind of policies and guidelines counseling centers had and how these would guide the counselors in decision making. From the results, it seems that the majority of the counseling centers have policies concerning clients' confidentiality, although in 13% of the centers, either no policies existed or they were not applied. As to policies concerning the limits of confidentiality, most of the directors stated that they have such policies; however, 22% either did not have such policies or their policies were unclear or useless. Of those whose centers did have such policies (stating the limits of confidentiality), only 84% of the directors informed their counselors, and only 40% informed their student clients of the limits of confidentiality. The picture that emerged was that counseling centers needed to have more specific guidelines concerning the legal and ethical limits of confidentiality, and that counselors and student clients needed to be better informed about such limits.

The general pattern of directors' responses revealed that most directors were reluctant to break confidentiality. This reluctance to break confidentiality did not correlate with the center's policies on confidentiality, nor with the centers' demographic variables such as school size or level; whether the school was public or private; or the size of the counseling center; nor with the directors' professional variables, such as year in which the highest degree was earned, the discipline of that degree, and number of years they had served as director. One of the interesting findings was that those who hold Ph.D.

degrees seemed more reluctant to break confidentiality than those who hold Ed.D. or M.A. degrees; but this was found only in Vignette #1. Furthermore, there seemed to be a similar pattern in responding to Vignettes #1 and #2 in that those who would keep information confidential in Vignette #1 would more likely do the same in Vignette #2. The responses to Vignette #3 seemed quite independent of those of the other two, as many more directors were willing to break confidentiality in a potentially suicidal situation, and less willing in a grade forgery or drug manufacturing situation.

Confidentiality involves many complicated legal and ethical considerations. Those of us who work in student counseling centers cannot assume that the ivory tower will shield us from the public demand for more accountability and responsible judgment in delicate situations. Counseling centers have to set up specific guidelines and current policies to inform clients of their rights and the limitations of confidentiality (Everstine, et al., 1980). The legal ramifications of confidentiality are often confusing, and newer statutes and rulings are constantly being crafted. Counseling centers need to provide updated information to their staff by providing legal experts for periodic workshops.

In addition, university counseling centers often serve as a teaching/research facility for their universities. Counseling may be conducted by student-trainees, the sessions are usually taped and recorded, and several supervisors may have access to the confidential information. Policies need to be developed regarding confidentiality in these situations in order to provide proper protection for the clients

and to safeguard the storage, transfer, and accessibility to records and files. Student-trainees need to be just as well informed of their legal and ethical responsibilities as the regular staff and counselors.

Furthermore, in addition to individual therapies, university counseling centers regularly conduct group therapy and family and marriage therapy. The legal definition of privileged communication is restricted to information and conversation within the professional setting without the presence of the third person (Knapp & VandeCreek, 1983). This legal definition has the potential to create complications for the confidential information obtained in group therapy and family therapy (Margolin, 1982).

It is time for the campus counseling centers in the nation to take a serious look at their policies regarding confidentiality, and to keep current the legal implications of the limits of confidential communication.

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